

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|---------------------------------|---|------------------------------|
| RAVANNA SPENCER, |) | |
| |) | |
| Plaintiff, |) | Case No. 1:09-cv-124-SJM-SPB |
| |) | |
| v. |) | |
| |) | |
| LANCE COURTIER, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM JUDGMENT ORDER

Plaintiff's complaint in this civil rights action was received by the Clerk of Court on June 1, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on May 23, 2011 [75], recommends that: (i) the DOC Defendants' motion for summary judgment [52] be granted; (ii) Defendant Polmueller's motion for summary judgment [57] be granted; and (iii) pursuant to the authority granted to courts in the Prison Litigation Reform Act, Plaintiff's claims under the Americans with Disabilities Act and the Rehabilitation Act be dismissed. Plaintiff's objections [77] were filed on June 16, 2011. On July 7, 2011, this Court held a telephonic oral argument relative to Plaintiff's objections.

After de novo review of the complaint and documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, this Court finds, for the reasons set forth on the record during the Court's telephonic argument held this same date, that there are genuinely disputed issues of material fact with respect to whether the Plaintiff suffers from a serious mental illness and with respect to the nature, scope, and severity of the alleged conditions of the Plaintiff's confinement while he was

held in SCI-Camp Hill's Special Management Unit ("SMU"). Accordingly, the Court will deny the DOC Defendants' motion for summary judgment insofar as it pertains to the Plaintiff's Eighth Amendment claim relative to the conditions of his confinement while in the SCI-Camp Hill SMU. In this limited respect, the Court will decline to adopt the Magistrate Judge's Report and Recommendation. In all other respects, the Report and Recommendation will be adopted as the opinion of this Court.

Accordingly, the following order is entered:

AND NOW, *to wit*, this 7th Day of July, 2011;

IT IS ORDERED that the DOC Defendants' Motion for Summary Judgment [52] shall be, and hereby is, GRANTED in part and DENIED in part as follows:

- (i) Said motion is DENIED insofar as it relates to the Plaintiff's Eighth Amendment claim based upon the alleged conditions of his confinement while at SCI-Camp Hill's SMU; and
- (ii) Said motion is GRANTED in all other respects. Accordingly, with respect to all claims against the DOC Defendants, other than Plaintiff's Eighth Amendment claim premised upon the conditions of his confinement while in SCI-Camp Hill's SMU, JUDGMENT shall be, and hereby is, entered in favor of the DOC Defendants and against Plaintiff Ravanna Spencer.

IT IS FURTHER ORDERED that Defendant Polmueller's Motion for Summary Judgment [57] shall be, and hereby is, GRANTED and accordingly, as to all claims directed against Defendant Polmueller, JUDGMENT shall be, and hereby is, entered in favor of Defendant Polmueller and against Plaintiff Ravanna Spencer.

IT IS FURTHER ORDERED that, pursuant to the authority granted courts in the Prison Litigation Reform Act, Plaintiff's claims pursuant to the Americans with Disabilities Act and the Rehabilitation Act shall be, and hereby are, DISMISSED.

The Report and Recommendation filed by Magistrate Judge Baxter on May 23, 2011 [75] is adopted as the opinion of this Court to the extent set forth herein.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record
U.S. Magistrate Judge Susan Paradise Baxter